

SUMMARY ANALYSIS OF AMENDED BILL

Author: Allen Analyst: Jessica Matus Bill Number: AB 1195
 Related Bills: See Prior Analysis Telephone: 845-6310 Amended Date: May 10, 2011
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Modify Jobs Tax Credit

SUMMARY

This bill would expand the current Jobs Tax Credit to taxpayers that employ 40 or fewer employees for up to the first three years of employment, but only in taxable years in which the average California unemployment rate reaches or exceeds seven percent.

RECOMMENDATION AND SUPPORTING ARGUMENTS

No position.

SUMMARY OF AMENDMENTS

The May 10, 2011, amendments would specify that the revised Jobs Tax Credit would only be available in taxable years in which the average California unemployment rate reaches or exceeds seven percent

As a result of the amendment, the "This Bill" and "Implementation Considerations" discussions have been revised. The "Technical Considerations" and "Policy Concern" remain and are included below for convenience. Except for the discussion provided in this analysis, the remainder of the analysis as amended March 31, 2011, still applies.

In addition, the "Economic Impact" has been updated to reflect new data on taxpayer usage of the current Jobs Tax Credit. This update is based on analysis of tax returns filed during March and April of this year that indicates a minimal increase in taxpayer participation in the Jobs Tax Credit program in taxable year 2010. As a result, the amount of credit available under the \$400 million cap is greater than previously estimated.

ANALYSIS**THIS BILL**

For taxable years beginning on or after January 1, 2011, this bill would change existing law to define a qualified employer as one that employs 40 or fewer employees and allow a \$3,000 credit for each net increase in qualified full-time employees during the year. It would also provide for an additional \$3,000 credit for each of the two succeeding taxable years after the initial year during which the employee is hired.

Board Position:

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Asst. Legislative Director

Date

Patrice Gau-Johnson

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This credit would be granted only if the employer continues to employ the same employee on a full-time basis in the succeeding taxable year. The additional credit is available for one or both of the succeeding two years.

Further, the bill would revise existing law to allow the Jobs Tax Credit only in years that the average California unemployment rate reaches or exceeds seven percent, as determined by the Employment Development Department (EDD).

Existing law that determines whether a taxpayer has first commenced doing business in this state during the taxable year has been eliminated in this bill for Personal Income Tax Law (PITL) and for Corporate Tax Law (CTL).

IMPLEMENTATION CONSIDERATIONS

The department staff has identified the following implementation concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

The bill specifies that the credit would only be available in years when the California average unemployment rate reaches or exceeds seven percent. It is unclear if the average rate would need to stay at seven percent for the entire year, or if when the seven percent mark is reached in any given year, the credit would be available. The author may wish to amend to specify how long in the year the rate must reach or exceed seven percent for the credit to be available.

The timing of determining the state's "average unemployment rate" is unclear. Lack of clarity could lead to disputes between taxpayers and the department. To avoid disputes, the author may wish to consider amending the bill to specify when the determination would be made and reported each year.

Further, the limitation that the credit would only be available for years when the unemployment rate reaches or exceeds seven percent is only in the first \$3,000 credit. It is unclear if the limitation would apply to the additional \$3,000 credit for the next two years. If the author's intent is to apply the limitation to all of the credits that can be generated, the author may wish to amend the bill to specify this limitation.

TECHNICAL CONSIDERATIONS

The phrase "qualified taxpayer" should be replaced with "qualified employer" on page 2, line 24 and page 6, line 18.

On page 2, line 21 and on page 6, line 15, after "for" delete "the".

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of AB 1195 For Taxable Years Beginning On Or After January 1, 2011 Enactment Assumed After June 30, 2011 (\$ in Millions)				
2011-12	2012-13	2013-14	2014-15	2015-16
-\$90	-\$55	+\$14	+\$44	+\$22

The revenue impact as previously released has been modified based on new data, as discussed in the last paragraph of the "Summary of Amendments" section above.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

POLICY CONCERN

This bill removes provisions that make reference to existing anti-abuse rules.¹ These rules were designed to prevent an existing business from being treated as first commencing business in the state when the business simply changed structure (i.e. changed from a sole proprietor to an S-corporation). This bill could allow taxpayers in certain circumstances to claim multiple tax benefits by claiming the credit multiple times for the same employee.

LEGISLATIVE STAFF CONTACT

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¹California Revenue and Taxation Code sections 17276(f) and 24416(g).